IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 81 of 1991

with

INCOME TAX REFERENCE Nos 83 and 84 of 1991

and

INCOME TAX REFERENCE No 77 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

SAYAJI IRON WORK (QUARRY)P LTD

Appearance:

1. INCOME TAX REFERENCE No. 81 of 1991

MR AKIL KURESHI with MR MANISH R BHATT for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

and

MR.JUSTICE D.A.MEHTA

Date of decision: 16/10/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In these references at the instance of the revenue, the following question is referred for our opinion in respect of assessment year 1982-83 in the first three references and assessment year 1985-86 in the fourth reference i.e. ITR No 77/93:-

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the provisions of section 40A(8) of the IT Act are not applicable in respect of interest paid to directors, share-holders and their relatives on their current accounts?"

2. We have heard Mr Akil Kureshi learned counsel for the revenue. Though served, none appears for the respondent-assessee.

3. Our attention is invited to the decision in Agew Steel Manufacturers Pvt. Ltd. vs. CIT, 209 ITR 77 which was followed by this Court in Income Tax Reference No.187 of 1986 decided on 4-7-2001. The question involved in the aforesaid reference was with regard to disallowance of 15% interest by the assessee-company to their directors.

Following the aforesaid decisions, our answer to the question referred in these References is in the negative i.e. in favour of the revenue and against the assessee.

4. The References accordingly stand disposed of with no order as to costs.

(M.S. Shah,J)

(D.A. Mehta,J)

zgs/-